

alcohol as well as hydrocodone that was not prescribed to him. After a hearing on the matter, the trial court revoked Terrell's probation and sentenced him to ten years in the Arkansas Department of Correction. Terrell now appeals, arguing that the trial court erred when it found that he violated the conditions of his probation relating to possession of alcohol; to being in an establishment that derives its main source of income from the sale of alcoholic beverages; and to possessing hydrocodone without a prescription.

At the hearing, Marked Tree police officer Roger Hood testified that on December 10, 2007, Terrell was a passenger in a vehicle driven by Sylvester Brown; that Hood stopped Brown as he was coming out of the Elm Street Liquor Store drive-through window because he knew that Brown's driver's license was suspended and that Brown had been stopped the week before for having fictitious tags; and that when he stopped the car and asked Brown for his driver's license, Terrell handed him the hydrocodone from his pocket, which was in a bottle labeled with Willie Terrell's name. Hood said that there were fifty-one pills in the bottle, and that Terrell told him that the hydrocodone belonged to his mother, Willie Terrell, and he was holding it for her. Hood testified that he also observed an unopened bottle of whiskey on the passenger-side floorboard, and Terrell told him that Brown had taken him to the liquor store to purchase the whiskey.

Jeremy Bond, a Marked Tree police officer who assisted Hood in Terrell's arrest, testified that when he arrived at the scene, Terrell and Brown were outside the vehicle, and he advised Terrell of his *Miranda* rights. Terrell then told Bond that the hydrocodone pills belonged to his mother; although Bond counted fifty-one pills in the bottle, he later

learned that 120 pills were originally prescribed only six days earlier. When asked about the hydrocodone pills, Terrell told Bond that he was in charge of his mother's medication; that he had given his mother some of the pills; and that he had also paid someone back eight pills out of his mother's hydrocodone. Bond stated that he also noticed that Terrell had a bottle of alcohol and approximately \$150 on his person. Bond further testified that Terrell told him that he had gotten a ride from Brown to the liquor store to buy a bottle of whiskey, and he admitted to Bond that it was his whiskey.

Sylvester Brown testified on Terrell's behalf, stating that he was the one who purchased the alcohol; that he bought it for himself; that he did not purchase it for Terrell; that he had no intention of giving Terrell the whiskey; and that he never heard Terrell tell the officers that the whiskey belonged to him, that he just took the pills out of his pocket and handed them to the officers. Willie Terrell testified that she had experienced problems with her medication disappearing; that people in her house other than Terrell were responsible for the disappearances; that she asked Terrell for help in protecting her medication, which included such drugs as hydrocodone, amitriptyline, and Xanax; and that she asked Terrell to keep her pain medication on his person because it would "disappear" even when she tried to hide it.

Terrell testified that Brown pulled into the liquor store to dodge the officers because Brown knew that the officers would "come after him" because of his tags; that Brown paid for the alcohol he purchased with a one-hundred dollar bill; and that Brown never handed the alcohol to him. Terrell denied ever having possession of the whiskey,

and he denied admitting to the officers that the alcohol belonged to him. He also stated that he explained to the officers that he had his mother's hydrocodone on his person because his sister and nephew were stealing it and his mother asked him to keep it for her.

At the close of the case, the trial court found that the case "boiled down" to whether or not Terrell admitted to the officers that he possessed both alcohol and prescription drugs that were not prescribed to him. The trial court found the officers' testimony to be more credible than Terrell's; that Terrell was on the property of a business whose main business was to sell alcohol; that he was present in the vehicle when the alcohol was purchased; and that Terrell told the officers that the alcohol belonged to him. The trial court then revoked Terrell's probation and sentenced him to ten years' imprisonment.

A trial court may revoke a defendant's probation at any time prior to the expiration of the period of probation if it finds by a preponderance of the evidence that the defendant has inexcusably failed to comply with a condition of his probation. Ark. Code Ann. § 5-4-309(d) (Repl. 2006). In probation revocation proceedings, the State has the burden of proving that appellant violated the terms of his probation, as alleged in the revocation petition, by a preponderance of the evidence, and this court will not reverse the trial court's decision to revoke probation unless it is clearly against the preponderance of the evidence. *Stinnett v. State*, 63 Ark. App. 72, 973 S.W.2d 826 (1998). The State need only show that the appellant committed one violation in order to sustain a revocation. See *Brock v. State*, 70 Ark. App. 107, 14 S.W.3d 908 (2000). Where testimony is conflicting,

this court defers to the trial court's determinations with regard to the credibility of witnesses. *See Newborn v. State*, 91 Ark. App. 318, 210 S.W.3d 153 (2005).

In this case, the trial court explicitly found the officers' testimony regarding Terrell's claim of ownership of the alcohol to be more credible than Terrell's testimony that the alcohol did not belong to him and his denial that he had told the officers that it was his alcohol. Terrell argues that there is insufficient evidence to show that he constructively possessed the alcohol because the alcohol was found in jointly occupied premises, which requires proof of care, control, and management over the contraband. However, in revocation proceedings, the State is not required to prove beyond a reasonable doubt that the appellant has violated the terms of his probation, but rather it is required only to prove a violation by a preponderance of the evidence. *See Stinnett v. State, supra*. We hold that the officers' testimony that Terrell told them that the alcohol was his, coupled with the fact that the alcohol was found in the passenger floorboard, is sufficient evidence to prove by a preponderance of the evidence that Terrell violated the terms of his probation by possessing alcohol. Because this violation is sufficient to support the revocation of Terrell's probation, we need not address Terrell's remaining points on appeal.

Affirmed.

BIRD and GRIFFEN, JJ., agree.